

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

TIMOTHY J. THORNE, SR.,

Plaintiff,

v.

DENISE BROWN, et al.,

Defendants.

)
)
)
)
)
)
)
)
)
)

No. 4:12-CV-2193 ERW

MEMORANDUM AND ORDER

This matter is before the Court on plaintiff's request for waiver of filing fees. Plaintiff's request will be denied.

Plaintiff, a prisoner, was assessed an initial partial filing fee of \$23.37 in this Court on January 28, 2013. [Doc. #7] Plaintiff failed to pay his initial partial filing fee when it was assessed. It appears that plaintiff did not pay towards the District Court filing fee until payment was removed from his account on January 7, 2016 in an amount of \$4.96, and again when an amount of \$20.03 was removed from his account on July 5, 2018. Thus, plaintiff has paid \$24.99 toward the \$350.00 District Court filing fee. Section 1915(b)(2) states that the agency having custody of the prisoner will deduct payments and forward them to the Court each time the amount in the prison account exceeds \$10.00.

Plaintiff appealed this action on February 19, 2013, and he filed a motion to proceed in forma pauperis on appeal on that same date [Doc. #12 and #13] The Court denied plaintiff's motion to proceed in forma pauperis on appeal on February 28, 2013 based on lack of good faith. [Doc. #15] However, after affirming the dismissal of this action, the Court of Appeals ordered the District Court to begin collection of the \$455.00 appellate filing fees from plaintiff's inmate

account. [Doc. #20] The Court ordered the collection of the appellate filing fees on June 6, 2013. [Doc. #21] As of today's date, plaintiff has paid \$121.31 toward his \$455.00 appellate filing fees.

Plaintiff now requests waiver of his filing fees because he believes MDOC is removing too much from his inmate account instead of following the law and taking out the appropriate amount for filing fees, as provided by statute. Plaintiff has not provided any evidence that this is occurring.

Title 28 U.S.C. § 1915(b)(1) states, "if a prisoner brings a civil action or files an appeal in forma pauperis, the prisoner *shall* be required to pay the full amount of the filing fee." (Emphasis added). Thus, payment of the full amount of both the District Court's and the Eighth Circuit Court of Appeal's filing fees is mandatory in this case.

Furthermore, plaintiff has not demonstrated that he has no funds and cannot pay the filing fees in this instance. He has not submitted an updated copy of his prison account showing he has no funds available in his account or that MDOC is removing more money than that allowed by statute. As a result, his request to waive the filing fees will be denied.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's request for waiver of the filing fees [Doc. #23] is **DENIED**.

Dated this 11th day of January, 2019.



E. RICHARD WEBBER
UNITED STATES DISTRICT JUDGE